

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION - DETROIT**

In re:

Tracy W Simmons  
Debra G Simmons

Debtors

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Chapter 13  
Case No. 11-51888  
Honorable Thomas J Tucker

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY  
AND ENTRY OF ORDER WAIVING THE PROVISION OF FRBP 4001 (a)(3)**

NOW COMES Movant, Suntrust Mortgage, Inc., by and through its attorneys, Orlans Associates, PC, and shows unto this Honorable Court as follows:

1. That Movant is the holder of a mortgage on real property owned by the debtor and located at 11031 Wooferton Ct., Midlothian, VA 23112. (The following documents are attached Mortgage and Note).
2. That the debtor filed Chapter 13 Bankruptcy on April 26, 2011.
3. That the case was confirmed and an Order Confirming Plan was entered with this Court on July 22, 2011.
4. That pursuant to the terms of the Order Confirming Plan, the debtor is required to remit payments of \$2,142.69 per month to the Movant.
5. That pursuant to 11 U.S.C. § 362 (d)(1), upon request of a party in interest, the court shall grant relief from stay for cause.
6. That pursuant to the confirmed plan, the Movant is to be paid directly by the Debtor;
7. That the Debtor has failed to maintain the direct payments to Movant and is now due for July 1, 2012 in the amount of \$10,724.45.
8. That the Debtor's failure to maintain the direct payments to Movant constitutes a material default in the confirmed plan.
9. That the material default in the confirmed plan is cause for the court to grant relief from stay.
10. That the approximate market value of the subject property pursuant to Debtor's Schedule D is \$337,500.00.
11. That the total debt owing to the Movant is approximately \$370,223.37, plus reasonable attorney fees.
12. That Suntrust Mortgage has an additional lien on the property in the approximate amount of \$77,158.00.
13. That the total debt owing on the property in the approximate amount of \$447,381.37.
14. That Association Community Services West, Suntrust Mortgage and James Vernon may have an interest in the property located at 11031 Wooferton Ct., Midlothian, VA 23112 to the knowledge and belief of Movant.

15. That pursuant to Local Bankruptcy rule 9014-1(b)(4) attached is a copy of the proposed Order Granting Relief from the Automatic Stay labeled as Exhibit "A".
16. That Movant is not being afforded adequate protection as required by 11 U.S.C. Section 361.
17. That Movant request the entry of the order granting relief from the automatic stay shall be effective immediately upon entry, notwithstanding the provisions of FRBP 4001(a)(3).

That concurrence was sought, but not received prior to the filing of this motion.

WHEREFORE, Movant respectfully requests that this Court enter an Order Granting Relief from the Automatic Stay pursuant to 11 USC § 362(d) so that it, and its successors and assigns may exercise its rights to pursue its state court remedies with respect to its interest in the subject property, and the entry of the order shall be effective immediately upon entry, notwithstanding the provisions of FRBP 4001(a)(3), and whatever other relief the Court deems just and equitable.

Respectfully Submitted,

Date: December 18, 2012

/s/ Heather D. McGivern  
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